

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAIN RE FRANCISCO MOLINA, JR,  
AND JOSEPHINE MOLINA,

Debtors/Appellants.

No. C 10-5546 PJH  
Bankr. Case No. 09-71787**ORDER TO SHOW CAUSE RE:  
PERFECTION OF RECORD ON  
APPEAL**

On December 7, 2010, debtors' ("the Molinas") bankruptcy appeal was filed with this court. This was following the Molinas' filing of their November 19, 2010 notice of appeal with the bankruptcy court, in which the Molinas appealed the bankruptcy court's November 4, 2010 order denying the Molinas' motion to avoid Wells Fargo's lien under the Bankruptcy Code.

Pursuant to Federal Rule of Bankruptcy Procedure ("FRBP") 8006, the Molinas were required to file with the Bankruptcy Court *no later than December 3, 2010*, a designation of the items to be included in the record on appeal and a statement of issues on appeal. The Molinas did neither. On December 29, 2010, more than 26 days late, the Molinas appear to have mistakenly filed with *this court* what purports to be a designation of the items to be included on the record on appeal. However, the FRBP require that the designation of the record be filed with *the bankruptcy court* such that the bankruptcy court, the originating court, may compile and transmit the record to this court, the appellate court.

The Molinas never filed their statement of issues on appeal with either this court or the bankruptcy court. Moreover, because the Molinas never filed their designation of the items to be included in the record on appeal, the bankruptcy court never prepared and transmitted the record to this court's clerk's office, thus triggering the briefing schedule on

1 appeal.

2 If the Molinas wish to proceed with this appeal, they are ORDERED to file **with the**  
3 **bankruptcy court** their designation of the items to be included with the record on appeal  
4 and the statement of issues on appeal as required by FRBP 8006 **no later than Friday,**  
5 **May 27, 2011.** Given that both items are currently five months overdue, the Molinas are  
6 advised that if they fail to timely file the documents in accordance with this order, the court  
7 will dismiss this bankruptcy appeal for failure to prosecute pursuant to FRBP 8001.

8 **IT IS SO ORDERED.**

9 Dated: May 13, 2011



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PHYLLIS J. HAMILTON  
United States District Judge

12 cc: Clerk of the Bankruptcy Court, Oakland Div.  
13 Honorable William L. Lafferty  
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